

**RULES COMMITTEE
Of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Rules Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, 725 Veterans Memorial Highway, Smithtown, New York on Thursday, **December 16, 2004**.

MEMBERS PRESENT:

Legislator Allan Binder, Chairman

Legislator Michael Caracciolo, Vice•Chair

Legislator Jon Cooper

Legislator John M. Kennedy, Jr.

Legislator William Lindsay

ALSO IN ATTENDANCE:

Leg. Cameron Alden, Tenth District

Mea Knapp, Counsel to the Legislature

Ellen Martin, Aide to Leg. Binder

Ben Zwirn, Assistant Deputy County Executive

MINUTES TAKEN BY:

Diana Kraus, Court Stenographer

(THE MEETING CONVENED AT 3:04 PM)

CHAIRMAN BINDER:

All rise for the Pledge of allegiance led by Legislator Lindsay.

(SALUTATION)**CHAIRMAN BINDER:**

The Rules Committee will come to order. Anyone want to speak before the Committee? I have no cards. Hearing none, we'll go to the agenda, which, I think, will be very quick.

1928, adopting local law to establish smoke free school bus stops in Suffolk County.

I had put out requests to heart, lung and cancer societies and associations, whatever they may be to •• if they'd like to come here because I really did want to hear from them. And unfortunately we heard from the lung association. They said basically they don't care about this. They don't think this is really a problem. So, they're not interested. And the cancer society and the heart association just ignored us. So, I'm just going not make a motion. I'd like to hear from someone before I go forward. Is there a motion on 1928?

LEG. LINDSAY:

Again, the criteria for this Committee is there any legal obstacles in forwarding the ••

CHAIRMAN BINDER:

Right.

LEG. LINDSAY:

I mean shouldn't that be the question we are asking? I mean, I agree with you on the substance here, but ••

CHAIRMAN BINDER:

The other substance •• legally there's from my perspective there's no definition. I think there's a lot of legal flaws here. There's no definition of what a bus stop is. There's no list that exists. So, I don't know how we can •• I don't know what legal footing we're on even to go forward with this is •• having to •• to be able to enforce it. I don't know the legal powers. So, from my perspective, it seemed to be questionable from Counsel last time. And I think it's still questionable as to whether we have anything to go forward. So, that's why I'm not going to

make a motion.

LEG. KENNEDY:

I missed •• Mr. Chairman, I recall from the last Committee meeting kind of relevant to some of the conversation here that you two are having, I think there are other legal issues associated with this as well; but I don't know if they're legal or process issues, but as far as enforcement and implementation, I think we heard from the County Executive's representative, Mr. Zwirn, that there really is no mechanism in place, nor do they envision one in which individuals would be issuing violations or whatever this would wind up being. So, that I wonder about the integrity of the legislation.

CHAIRMAN BINDER:

All right. So, I don't think we have anything else. And I think Mr. Zwirn will probably concur with that.

MR. ZWIRN:

That's correct. My understanding is this •• the County Executive will not support this bill and more than likely would probably veto the bill if it ever gets to the ••

LEG. LINDSAY:

Again, the question •• the rules is there any legal obstacle in us reporting the bill to the full body? It went through what Health Committee, 8•0?

CHAIRMAN BINDER:

Right. But I think •• my view is that the sponsor should look at any legal mechanisms before we sit and discuss this and have a whole debate on the floor. The legal options of being able to identify, getting lists of these stops, who the •• where the stops are, and getting an understanding of that, it should be taken care of before we end up debating because there's nothing to talk about because these bus stops don't exist. And if they do exist, there's no legal obligation to give us those stops by school districts. So, I don't know •• it would seem to me that we the author has to go a little further in trying to figure that out before we end up having to do this on the floor.

And, also I still want to hear from the Cancer Society here, if that's possible.

LEG. LINDSAY:

So you want just table it again?

CHAIRMAN BINDER:

Well, we don't table. If there's no motion, it'll stay here. Okay. Okay. There's no motion on 1928. **(No motion. Not reported)**

2038, local law to require greater oversight of the designated Tourism Promotion Agency administering the Hotel/Motel Tax Program. Motion by Legislator Caracciolo to report, second by Legislator Kennedy.

LEG. LINDSAY:

Question. Counsel, is there any legal obstacle? And I'm confused just for my own sake. Maybe the sponsor •• because there was a number of tourism resolutions. What does this one do?

LEG. CARACCIOLO:

Well, first I'll let Counsel explain a little better.

MS. KNAPP:

No. This is entirely internal to the County and establishes processes that we would be checking tourism promotion agency that we contract with, making sure that they're complying with these requirements.

LEG. CARACCIOLO:

Bill, what this resolution does, first, I think, you might be aware that I noticed this morning Legislator Schneiderman sent out a fax withdrawing two of, I think, three resolutions that he was sponsoring, you know, with respect to the Long Island Business Convention Bureau. This resolution's really very straight forward. As a result of the audit that led to Mr. Hollander's, I guess, resignation, I feel it's very important as part the contract agency requirements the County has with contract agencies of which LIBCB is one, that given those problems, those financial issues that came to the floor as a result of Mr. Hollander's tenure, that the County receive •• both the County Executive and the Clerk of the Legislature receive an annual financial audited statement of •• of their books.

It requires that the County enforce that the dual signatures that they've indicated they have now made policy is, in fact, being carried out; not just a promise that falls through the cracks and nobody ever checks to see if that's taken place. And there was one other stipulation, Counsel, that it comply with all other county contractual agency requirements; correct?

MS. KNAPP:

And there is also embedded in that, too, a requirement that they provide an annual •• an audited financial report and a copy of their bi•laws. And, yes, that that they comply with all contract agency requirements.

LEG. CARACCILO:

And as Mr. Zwirn testified yesterday, the County Executive supports this resolution.

MR. ZWIRN:

That's correct.

CHAIRMAN BINDER:

We have a motion to report by Legislator Cooper 1928. **(1928, adopting local law to establish smoke free school bus stops in Suffolk County)** We'll just go back one. I'm going to postpone 2038. We were in the middle of it. Is there a second to the motion to report?

LEG. COOPER:

Just for the record, I spoke to the sponsor of the resolution. And this is his thought process in case it wasn't addressed earlier in this Committee meeting. He apparently got calls from a number of parents within the district that were upset that other parents who were •• other individuals who were smoking at bus stops where their kids were waiting for school buses. And the problem being that when the parents asked the offender to not smoke in the presence of the kids, the response was, hey, it ain't illegal. So, I'm going •• you can't make me stop. I don't think the purpose was to have Suffolk County Police officers enforce this or Health Department enforce it. But, it would be a tool so parents would be able to say to someone smoking in the presence of their kids, that they shouldn't do it. It's not healthy; it's illegal.

So, I think it would be self•enforcing. It was driven by complaints from parents in the district.

So, based on that, there's still may be issues that are worthy of discussion at the full legislative meeting. But once I have a better •• and I also at the last Committee meeting, Rules Committee, did not move to refer this out of Committee. But I think that based on this understanding, it's now warranted.

CHAIRMAN BINDER:

We have a motion. Is there a second?

LEG. LINDSAY:

I'll second it.

CHAIRMAN BINDER:

We have a motion and a second. So, we have •• we'll go back to 1928. We have a motion and a second. All those in favor? Opposed? I'm opposed.

LEG. CARACCILO:

Abstained.

CHAIRMAN BINDER:

Abstained, Legislator Caracciolo. Legislator Kennedy, where are you?

LEG. KENNEDY:

I'll pass.

CHAIRMAN BINDER:

You abstain. We abstain. If it's not reported, it still stays here.

(Vote: 2•1•2•0. Leg. Binder opposed. Leg. Caracciolo and Leg. Kennedy abstained.)

2038, we have a motion and a second and on, also. Legislator Alden, did you want to speak on this?

LEG. ALDEN:

I want to commend Legislator Caracciolo. And actually what this bill does is it cleans up some stuff that I attempted to do a couple of years ago. Mine was a more informal type of

requirement, but I could never get it enforced. It would force the LIBCB to come before the Consumer Protection Committee or the Energy and Environment Committee at least one time a year and report on basically their income, their expenses, their sales programs and be accountable to the County in that way.

Legislator Caracciolo and I had a discussion on this. And I like his approach requiring audited financial statements. And I think it tightens it up a lot better than what I had done a couple of years ago. So, I'm going to be •• I hope it gets out of this Committee and I will be supporting it on the floor.

CHAIRMAN BINDER:

Legislator Lindsay.

LEG. LINDSAY:

I'm supportive as well of the legislation; but I think, you know, maybe this process should be expanded beyond just the convention bureau. I mean we •• this morning we had the new head of the Red Cross Program here. And, you know, we certainly had problems with that program as well. And, you know, Mr. Sawicki's audit of them questioned some of their accounting procedures. You know, going into the new year, maybe it's something that we should explore expanding this beyond just convention.

CHAIRMAN BINDER:

We should probably be careful of how far we expand it because a lot of agencies can't afford audited financials so ••

LEG. LINDSAY:

Well, the other thing, too, is I don't think we have the time to •• to ••

CHAIRMAN BINDER:

Ourselves.

LEG. LINDSAY:

Ourselves.

CHAIRMAN BINDER:

That's true, but we should look at the size and scope of agencies. We don't want to bury agencies that can't ••

LEG. LINDSAY:

We don't want to bury ourselves.

CHAIRMAN BINDER:

Or ourselves, right. Legislator Caracciolo.

LEG. CARACCILOLO:

There's no one here from Budget review, but maybe Counsel has a sense of •• how many of the contract agencies •• first of all, how many are there? Does anyone have a number? I mean, there are hundreds I understand. If not, maybe a couple of thousand, number one. Number two •• is that about right? Hundreds?

MS. KNAPP:

If you include everything in Social Services and everything in the Health Department and all the senior programs, in Aging •• Office of the Aging, the youth programs, I'm sure you're in four figures; maybe even five.

LEG. CARACCILOLO:

Okay. I know the Comptroller is charged with, you know, looking at the books of contract agencies. How he goes about that, I'm not certain. It seems to me that a lot more County oversight given the amount of tens of millions of dollars that are dispensed to contract agencies, it may warrant, you know, that type of additional oversight. And I would suggest and I'll be happy to work on the resolution with you, Bill, that maybe we come up with a threshold dollar amount of charging •• adding a requirement for certified financials. This really came about obviously by the great work done by Legislator Alden and uncovering what was going on with the LIBCB. But when you think about what transpired on Wall Street the last three years and the actions taken by the SCC and by congress to shore up and hone in on the abuses that were taken there with financials, now you have to have a CFO of every major corporation of America as well as the CEO has to sign a form certifying that those certified financials by an

accountant firm are, in fact, the company's books; right, Jonathan? I don't know if you're doing that in your company but ••

LEG. COOPER:

Of course I am.

LEG. CARACCILOLO:

But, you know, I think that type of ••

LEG. LINDSAY:

Well, the other thing is that I'd like to look at what you're proposing because I'd like to see us more proactive instead of reactive. I mean, you know, we just talked about two contract agencies that were really being reactive not proactive to ••

LEG. CARACCILOLO:

That's part of the legislative function; is oversight. Thank you.

CHAIRMAN BINDER:

We have a motion and a second. All those in favor? Opposed? **2038 is reported out to the next legislative meeting. (Vote: 5•0)**

2060, adopting local law to protect minors against drivers of street vending vehicles. I think this is to make sure that the stop sign's high enough so the kids don't get hit by it. No, that's not what it is.

LEG. COOPER:

Can we have an explanation, please?

CHAIRMAN BINDER:

Counsel.

MS. KNAPP:

This amends an already existing section of law that is administered by the Public Works Department where those who operate street vending vehicles have to be certified by DPW. This allows them to basically make sure that none of these people have been sexual predators;

right. And it also adds a requirement that the same certification be applied to their helpers.

LEG. LINDSAY:

I'd just like to mention to the Committee as a member of Public Works, we asked the Commissioner yesterday will this add any undue burden to that department? And the answer was no. They already have a procedure and a form that street vendors have to apply for this permit. And this would just add a couple of more questions on the form. So, he didn't •• he didn't see it as an obstacle.

CHAIRMAN BINDER:

And I assume we have •• and that's the next question for legal Counsel. Do we have the ability, the legal ability to request this or require that information be forthcoming?

MS. KNAPP:

Well, we routinely check them now for certain offenses. This would simply add the check for the •• if there are any sex offenders. And there's certainly a rational relationship between checking, you know, someone who ••

CHAIRMAN BINDER:

Since we give the license. Right. Since we give the license for •• well, we don't give the license for street vending, do we?

MS. KNAPP:

They have to be certified. They have to be certified.

CHAIRMAN BINDER:

Right. Right. So, we would •• so we have the •• right, there's a rational relation between us giving the certification and this requirement. So, motion by Legislator Kennedy, second by Legislator Cooper. All those in favor? Opposed? **2060 is reported. (Vote: 5•0)**

2061, a local law to permit seizure of vehicles of unlicensed home appliance repair businesses. Motion by Legislator Lindsay, second by Legislator Kennedy. So, we're going after the Whirlpool man now. Okay. Maytag or Whirlpool? Oh, you're a Maytag guy. Legislator Alden, do you have a comment on this?

LEG. ALDEN:

This came out of Consumer Protection Committee. And basically there's an ongoing problem in Suffolk County where somebody's been in the repair business, and they've been prosecuted, they've been put in jail, they still •• even in defiance of court orders go out there and do the same thing. And they're ripping people off, you know, even as we're sitting here speaking. So, this gave one more tool to the Consumer Affairs Department and the Police Department to stop and put out of business these people that are just •• they're predators on some folks that are trying to get appliances fixed.

CHAIRMAN BINDER:

We're not going after that guy on the commercial with the blue uniform?

LEG. ALDEN:

No, not that guy.

CHAIRMAN BINDER:

Not that guy.

LEG. ALDEN:

He's already been put out of business. He's out of a job.

CHAIRMAN BINDER:

He's out of a job. Okay. Right, that's true. He's sitting around; he's not doing anything anyway. All right.

LEG. COOPER:

Actually I think he's dead. Isn't he dead? They have a new guy.

CHAIRMAN BINDER:

Do they?

LEG. COOPER:

Yeah. Am I right? The stenographer agrees with me.

CHAIRMAN BINDER:

There we go. All right. So, we have a motion and a second; is there a legal •• any legal problem with our taking the vehicles? I need to know this question. Are we allowed •• we took vehicles for different things. Are we allowed to take them from the Maytag repair man? I need to know.

MS. KNAPP:

We have •• our seizure law has been tested and sustained, not in these specific circumstances but to the extent that we do have the ability to license these people. Given our legal history •• it's not •• it's certainly not a decided question. I wouldn't say that to you. But on the other hand, when you look at the cases under the DWI seizure, it gives you a feeling that this one should be sustained also.

CHAIRMAN BINDER:

Okay. Just curious, Ben. County Exec want to take these cases? How does the County Exec feel as long as I got you here. You don't have to say anything.

LEG. COOPER:

You don't have to say anything.

CHAIRMAN BINDER:

You don't have to say anything, right.

MR. ZWIRN:

It wasn't the County Exec's bill, but he •• Legislator Nowick worked on it with the County Attorney's Office to make sure the language was proper and that it could be enforced. We have no problem.

CHAIRMAN BINDER:

And I was actually concerned •• right •• the legal question from your end. Okay.

LEG. LINDSAY:

We're making great progress. So, we've taken care of ice cream men, the Maytag man. The next resolution is about the flying nun.

LEG. COOPER:

For the record, I'd like to request Legislative Counsel, I want dibs on any other •• any other business that we license, that we haven't thought of yet, I want dibs on. You can write me a memo, please.

CHAIRMAN BINDER:

Here's the question. You want to ban them, do you want to regulate them, or you want to take their cars?

LEG. COOPER:

Any unlicensed business that we give licenses to. Anything else we can think of? I want dibs on. Can I do that?

CHAIRMAN BINDER:

Is there anything else we can take, though? Do we have to stop at cars? Is there anything else we can take?

LEG. COOPER:

No, I'm just talking about vehicles. Vehicles. I started off being facetious but now I'm serious. So, Mea, could you do some research when you ••

CHAIRMAN BINDER:

2061, we have a motion, a second; all those in favor? Opposed? **2060 is reported. (Vote: 5•0)**

LEG. COOPER:

For the record, Legislative Counsel shot me a look that could kill.

MS. KNAPP:

Can I say one thing?

CHAIRMAN BINDER:

Counsel wants to shoot back another look.

MS. KNAPP:

About the unlicensed home appliance repair businesses, I believe that the Head of Consumer Protection really welcomed this particular bill. While, you know, while he said that the vast majority, those few recalcitrant, that this was another quiver, another arrow in his quiver. And he really welcomed this one.

CHAIRMAN BINDER:

Okay. **2209, local law to require posting a sign indicating location of defibrillator.** Are we legally able to post these? Is there any legal question on this, Counsel? Requiring the posting. Motion by Legislator Caracciolo, second by Legislator Kennedy. Are there any legal questions on it?

MS. KNAPP:

To the extent that •• when we enacted the gift certificate legislation, the companion resolution to that required the posting so that the public was well aware. And actually the state has recently followed suit on Suffolk's gift certificate legislation. To the extent that defibrillators are required in certain places, we should have the same •• the same legal basis as we did with gift certificates.

CHAIRMAN BINDER:

Okay. Legislator Lindsay.

LEG. LINDSAY:

I mean I'm supportive of the bill but I can see what's going to happen now. I'm going to be in the office late one night, and somebody's going to be running in wanting to use the defibrillator and I don't know how to use it.

CHAIRMAN BINDER:

Yeah, but you'll know where it is.

LEG. LINDSAY:

I'll know where it is.

CHAIRMAN BINDER:

They'll tell you where. Look for the sign. We have a motion and a second. All those in favor? Opposed? **2209 is reported. (Vote: 5•0)**

Sense 82, memorializing resolution requesting the New State to enact exemptions to the Freedom of Information Law to protect against identify theft. Motion by Legislator Caracciolo, second by Legislator Kennedy. On the motion.

LEG. CARACCILOLO:

On the motion. We need to table this because I just had a conversation with Counsel.

CHAIRMAN BINDER:

He's withdrawing his motion and withdrawing the second.

LEG. CARACCILOLO:

So, I'm going to make a motion to table.

CHAIRMAN BINDER:

No, no, no motion. It'll be here. It'll be here.

LEG. CARACCILOLO:

That's right. That's right.

CHAIRMAN BINDER:

Sense 84, memorializing resolution requesting New York State to enact legislation to curtail aggressive driving.

LEG. LINDSAY:

Motion.

CHAIRMAN BINDER:

What are we going to do to curtail aggressive driving? I'm just curious. I don't have that in front of me.

LEG. LINDSAY:

From what I understand, this is a companion to a bill that's in the state senate. Am I correct?

MS. KNAPP:

(Nodding head)

CHAIRMAN BINDER:

What do you want to do?

LEG. LINDSAY:

Go ahead.

MS. KNAPP:

What the senate bill would do would define aggressive driving and aggravated •• aggressive driving as part of the Vehicle and Traffic Law. Right now what the police are doing is they're basically stopping people for the offenses that, you know, that somehow make up aggressive driving. But what this does is actually codify it under state law. And while it's being enforced statewide, a program against aggressive driving, the bill jacket said that they really needed this as an additional tool.

CHAIRMAN BINDER:

Motion by Legislator Lindsay, second by Legislator Cooper. All those in favor? Opposed?

Sense 84 is reported. (Vote: 5•0)

Anything else to come before the Committee? If not, motion to adjourn by Legislator Kennedy, second by Legislator Caracciolo. All those in favor? Opposed? We're adjourned.

(THE MEETING CONCLUDED AT 3:27 PM)